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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/682,443

10/09/2003

William F. Getgey

GET / 07

9799

26875

7590

08/16/2006

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EXAMINER

RUNNING, RACHEL A

ART UNIT

PAPER NUMBER

3732

DATE MAILED: 08/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/682,443	GETGEY ET AL.	
	Examiner	Art Unit	
	Rachel A. Running	3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) 27-31 and 43-47 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 and 32-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/04, 12/04, 3/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group 1 in the reply filed on July 20, 2006 is acknowledged.
2. Claims 27-31 and 43-47 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Group, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on July 20, 2006.

Double Patenting

3. Applicant is advised that should claims 37 and 38 be found allowable, claims 39 and 40 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 8 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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6. In line 2 of claim 8, the "said circular disk" lacks a prior antecedent.
7. In line 1 of claim 14, the "toothpaste holder" lacks a prior antecedent.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1, 4, 5, 8, 12, 15-17, 19, 21, 23-25, 32, 37, 39, and 41 rejected under 35 U.S.C. 102(b) as being anticipated by Poulos et al (US 5,279,314). Poulos et al discloses an elongated body (22) having opposed first and second ends, a hollow portion, a power supply (30), a replaceable flosser head (120) having a base removably connected to the first end of the elongated body see Figure 2 (column 5, lines 35-40). A yoke extending from the base of the flosser head having a pair of spaced tines (122, 124) between which a piece of flexible floss (126) is held see Figure 3 (column 8, lines 39-41). The power supply includes a motor (34) and a battery (30), wherein a pin (76) extends upwardly from the first end and is coupled to the motor. The flosser head comprises a base (86) that has a receptacle to receive the pin see Figure 2. The pin defines a vertical axis about which the flosser head oscillates, but the piece of floss does not pass through see Figure 4. A locking mechanism (98) is used for removably securing the flossing head to the body (column 7, lines 49-52). The drive mechanism for the motor is located within the handle portion. Regarding claims 32, 37, 39, and 41

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the method of flossing teeth is understood that Poulos et al would have to activate the motorized flosser and press the length of floss material between two teeth to floss the user's teeth.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 6, 9-11, and 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Poulos et al. Poulos discloses the claimed invention except for the head oscillating a frequency between 2000 and 3000 cycles per minute, and the head oscillating through an arc between 30 and 75 degrees. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the head oscillating at a frequency 2800 cycles per minute, and the head oscillating through an arc of 60 degrees, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

12. Claims 3, 20, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Poulos et al in view of Ali et al (US 5,799,674). Poulos et al disclose the claimed

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invention as rejection in claims 1, 4, 5, 8, 12, 15-17, 19, 21, 23-25, 32, 37, 39, and 41 above, however, Poulos et al do not disclose a bite pad secured to the first end of the body. Ali et al teach a flossing device with a bite pad (62) secured to the first end of the body see Figure 1 (column 3, lines 30-35). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the flossing device of Poulos et al with a bite pad as taught by Ali et al in order to reduce movement of the shaft when the shaft is inserted into the mouth.

13. Claims 2, 7, 13, 14, 18, 22, 33, 38, 40 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Poulos et al. in view of Kivlighan (US 5,348,473). Poulos et al disclose the claimed invention as rejection in claims 1, 4, 5, 8, 12, 15-17, 19, 21, 23-25, 32, 37, 39, and 41 above, however, Poulos et al do not disclose a flexible toothpaste holder that has a truncated conical shape. Kivlighan discloses a flexible toothpaste holder (60) that has a truncated conical shape see Figure 2 (column 4, lines 55-65). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the flosser of Poulos et al with a toothpaste holder as taught by Kivlighan in order to allow the user to floss and polish their teeth simultaneously.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rachel A. Running whose telephone number is (571)

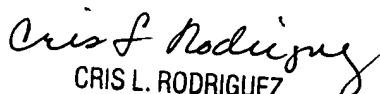
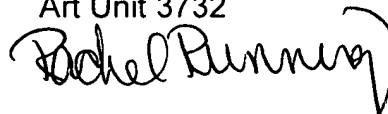
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272-1917. The examiner can normally be reached on Monday-Friday 7:00 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on (571) 272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Rachel A. Running
Examiner
Art Unit 3732



CRIS L. RODRIGUEZ
PRIMARY EXAMINER